

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:

Alvira R Moss

Debtor,

Case No. 19-32525

Chapter 13

Judge Donald R. Cassling

**NOTICE OF MOTION OF SECURED CREDITOR FOR RELIEF FROM THE
AUTOMATIC STAY AND TO WAIVE THE PROVISIONS OF FED.R.BANKR.P.4001(A)(3)**

Counsel for Rushmore Loan Management Services as servicer for J.P. Morgan Mortgage Acquisition Corp., has filed a Motion with the Court for relief from the automatic stay and to waive the provisions of Fed.R.Bankr.P.4001(a)(3).

PLEASE TAKE NOTICE that the court will hold a hearing on the request for relief from the automatic stay and to waive the provisions of Fed.R.Bankr.P.4001(a)(3).

This hearing will take place on March 5, 2020 at 9:30 a.m. before the Honorable Donald R. Cassling at the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Courtroom 619, Chicago, IL 60604.

Dated: February 21, 2020

/s/ Marc G. Wagman

AFFIDAVIT OF SERVICE

I, Rachelle Magolan, declare under the penalty of perjury that on the 21st day of February, 2020, I served a copy of the Notice of Motion and Motion for Relief from Stay, Required Statement to Accompany Motion for Relief, Proposed Order for Relief, and Affidavit of Service upon:

Alvira R Moss
6440 S. Vernon Ave.
1st Floor
Chicago, IL 60637

David M Siegel
David M. Siegel & Associates
790 Chaddick Drive
Wheeling, IL 60090

Tom Vaughn
55 E. Monroe Street
Suite 3850
Chicago, IL 60603

Office of the US Trustee
219 S. Dearborn St
Room 873
Chicago, IL 60604

By placing same in a well sealed envelope, by first class mail, with the proper prepaid postage thereon and depositing same in a United States Mail receptacle in the City of Rochester, State of Michigan to the Debtor, and via CM-ECF electronic filing to Debtor's Attorney, the Trustee and the Office of the US Trustee.

/s/ Rachelle Magolan
Rachelle Magolan

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MOTION OF RUSHMORE LOAN MANAGEMENT SERVICES AS SERVICER FOR J.P. MORGAN MORTGAGE ACQUISITION CORP., FOR RELIEF FROM THE AUTOMATIC STAY AND WAIVING THE PROVISIONS OF FED.R.BANKR.P.4001(A)(3) AS TO THE REAL PROPERTY LOCATED AT 6440 SOUTH VERNON AVE., CHICAGO, IL 60637

Rushmore Loan Management Services as servicer for J.P. Morgan Mortgage Acquisition Corp., (“Movant”) moves this Court, under § 362, and other sections of the Bankruptcy Reform Act of 1978, as amended (the “Bankruptcy Code”) and under Rules 4001, 6007 and other rules of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for an Order modifying the automatic stay, imposed by 11 U.S.C § 362 of the Bankruptcy Code, and for a waiver of the provisions of Fed. R. Bankr.P.4001(a)(3). In support of this Motion, the Movant states:

1. The Debtor filed for chapter 13 bankruptcy relief on November 15, 2019.

2. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334.

This is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of this case and this Motion are proper under 28 U.S.C. §§ 1408 and 1409.

3. On August 5, 2004 the Debtor listed above, obtained a loan from People’s Choice Home Loan, Inc. in the amount for \$243,000.00. Such loan was evidenced by a promissory note dated August 5, 2004 (the “Note”). Debtor executed a Mortgage dated August 5, 2004 (the “Mortgage”), conveying to Mortgage Electronic Registration Systems, Inc. as nominee for People’s Choice Home Loan, Inc. a lien on real property (the “Collateral”) owned by the Debtor, located at 6440 South Vernon Avenue, Chicago, IL 60637. The lien is the first lien on the collateral.

4. The Note and Security Agreement were transferred as follows: (a) on April 19, 2018 to J.P. Morgan Mortgage Acquisition Corp. and the transfer is evidenced by an Assignment of Mortgage.

5. The estimated market value of the Collateral may be \$169,000.00. This valuation was obtained from Schedule "D" provided by the debtor. The current outstanding principal balance due on the Note is \$290,635.46, plus interest accruing at the rate of 5.00000% per annum [\$19.64 per day]. This amount may not include accrued interest, fees, late charges, escrow shortages or corporate advances.

6. Upon reasonable investigation, The City of Chicago Water Division is known to have an interest in the Collateral.

7. Movant seeks an order for relief from the automatic stay in order to protect its lien pursuant to the terms of the security agreement, to the extent allowed by law. Movant may in lieu of foreclosure offer and provide Debtor with information re: a potential Forbearance Agreement, Loan Modification, Refinance Agreement, or other Loan Workout/Loss Mitigation options, and may seek to enter into such agreement with Debtor. Movant understands that it may not enforce or threaten to enforce any personal liability against Debtor if Debtor's personal liability is discharged in this bankruptcy case or while the case remains pending.

8. The Debtor filed her Chapter 13 Plan with the Court on November 15, 2019. Pursuant to the Chapter 13 Plan, the Debtor is to make her ongoing payments directly to Movant.

9. Movant is entitled to relief from the automatic stay under §§ 362(d)(1). The Debtor is in material default of the mortgage obligations by a failure to make the required ongoing monthly mortgage payments.

10. Debtor is presently due for the December 1, 2019, monthly mortgage payment in the amount of \$1,474.45 per month and each month thereafter. There is a present default of

\$4,423.35 in post petition arrears to the Movant, which does not include attorney fees of \$1,050.00 and costs of \$181.00. The total default including attorney's fees and costs totals \$5,654.35.

11. Based upon the foregoing, cause exists for modifying the automatic stay with a waiver of the provisions of Fed.R.Bankr.P.4001(a)(3) is appropriate; an order for relief should have immediate effect.

WHEREFORE, Movant prays for an Order from the Court for Relief from the Automatic Stay of 11 U.S.C § 362 of the Bankruptcy Code as to the Movant with respect to the subject property located at 6440 South Vernon Avenue, Chicago, IL 60637. Movant further requests that the provisions of Fed.R.Bankr.P. 4001(a)(3) be waived and that the Order for Relief from the Automatic Stay have immediate effect, and further, remain in effect notwithstanding the conversion of this bankruptcy case to a case under any other Chapter of Title 11 of the United States Bankruptcy Code.

Respectfully submitted,

Date: February 21, 2020

/s/ Marc G. Wagman

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